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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,106	12/21/2001	Jean-Christophe Renauld	LUD 5752 DIV JEL/NDH (101)	7513
24972	7590	08/04/2004	EXAMINER	
FULBRIGHT & JAWORSKI, LLP 666 FIFTH AVE NEW YORK, NY 10103-3198			HAMUD, FOZIA M	
			ART UNIT	PAPER NUMBER
			1647	

DATE MAILED: 08/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 10/026,106	Applicant(s) RENAULD ET AL.	
	Examiner Fozia M Hamud	Art Unit 1647	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 May 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-12,24,25 and 29.

Claim(s) withdrawn from consideration: _____.

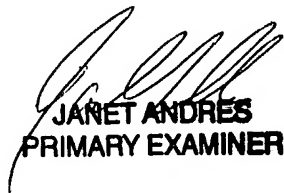
8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 3. Applicant's reply has overcome the following rejection(s): The rejection of claim 29 made under 35 U.S.C. § 112, first paragraph for lacking written description.

Claims 1-12, 24-25 and 29 stand rejected under 35 U.S.C. § 101, for reasons of record, set forth in the office actions mailed on 03/09/04 and on 09/29/03, because the claimed invention is not supported by either a specific and substantial asserted utility or a well established utility.

Applicants reiterate the same arguments presented in the response filed on 12/02/03, in that Example 7 of the instant specification discloses that the LICR2 of the instant application facilitates the activation of STAT factors. Applicants also argue that their post filing publication discloses that IL-10R-LICR-2 chimeric molecule was able to transduce a signal and caused phosphorylation of STAT1, STAT2, STAT3, and STAT5. Applicants further submit that since the roles of each of the STATs is known, it is not necessary to describe a particular STAT as being activated because the activation was generic and the activated molecules have a known function. Applicants also argue that the Examiner's argument that other molecules activate STATs is not relevant because there is more than one way to get a desired end. Also Applicants contend that the activation of STAT factors by the protein of the instant invention is an activity of said protein.

Specifically, this asserted utility is not specific or substantial. As was presented previously, such assays are generic and can be performed with many polynucleotide/polypeptide. The issue is not that many receptors may activate STAT factors, but that activating different STAT factors leads to different physiological processes. For example, activation of STAT proteins play different roles in normal physiological cell processes, such as proliferation, differentiation, angiogenesis, and apoptosis. STATs activation specificity within different cell lines depends on the specific interactions existing between the STAT proteins and their respective receptors. Thus, in the instant application, it is unclear what is the physiological end result once the protein of the instant invention activates STAT factors, is it involved in angiogenesis, apoptosis etc. Although LICR-2 may be involved in the activation of STAT factors in general, however, the instant specification does not teach the physiological role of said protein, i.e., the instant specification does not establish a nexus between the protein of the instant invention and a disease or a physiological condition.



JANET ANDRÉS
PRIMARY EXAMINER